

AMENDED IN SENATE APRIL 20, 2005  
AMENDED IN SENATE FEBRUARY 23, 2005

**SENATE BILL**

**No. 44**

**Introduced by Senator Kehoe**

January 4, 2005

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An act to amend Section 65302.1 of the Government Code, relating to general plans.

LEGISLATIVE COUNSEL'S DIGEST

SB 44, as amended, Kehoe. General plans: air quality element.

Existing law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries that bears relation to its planning. The law requires the plan to include a specified land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, and other categories of public and private uses of land. Existing law specifically requires the legislative body of each city and county within the jurisdictional boundaries of the San Joaquin Valley Air Pollution Control District to amend appropriate elements of its general plan to include specified information to improve air quality, *including a report describing local air quality conditions*.

This bill would make a legislative finding that air pollution is a serious problem in this state. The bill ~~additionally~~ would require the legislative body of each city and county, including those in the San Joaquin Valley Air Pollution Control District, to *either adopt an air quality element as part of its general plan or* amend the appropriate elements of its general plan to include data and analysis, comprehensive goals, policies, and feasible implementation strategies

*intended to contribute to and complement other local, regional, state, and federal strategies to improve air quality no later than one year from the date specified for the next revision of its housing element. The bill would require that the report be based on information provided by the air pollution control district or air quality management district in which the city or county is located.*

The bill would also require each city and county, at least 45 days prior to the adoption of an air quality element or the amendment of a general plan, to send a copy of the draft document to the air quality management district or air pollution control district in which it is located for review ~~and~~, comment, *and recommendations*, as specified. *A city or county that adopts an air quality element or amendments to its general plan prior to January 1, 2007, shall be deemed to have met the requirements of the bill, if the city or county makes a specified written finding.* By increasing the duties of local public officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 65302.1 of the Government Code is  
2 amended to read:  
3 65302.1. (a) The Legislature finds and declares ~~that~~ *all of the*  
4 *following:*  
5 *(1) That California has a serious air pollution problem that is*  
6 *the result of many factors, including pollution from both mobile*  
7 *and stationary sources. The ongoing problem of air pollution has*  
8 *had a significant impact on public health. According to the*  
9 *California Air Resources Board, over 90 percent of Californians*  
10 *breathe unhealthy levels of one or more air pollutants during*  
11 *some part of the year. The health effects of some of these*  
12 *common pollutants include respiratory disease, lung damage,*  
13 *premature deaths, cancer, reduced mental alertness,*

1 *neurological and reproductive disorders, chronic eye, lung, or*  
2 *skin irritation, chest pain, headaches, and nausea. In addition,*  
3 *air pollution can and does have a serious impact on California's*  
4 *economy and can result in the loss of federal funding for*  
5 *transportation projects important to a thriving state economy.*  
6 *Solving this problem requires the cooperation of land use and*  
7 *transportation planning agencies, transit operators, the business*  
8 *and development communities, air quality management districts,*  
9 *air pollution control districts, and the public.*

10 *(2) The regulation of air quality is generally the responsibility*  
11 *of regional, state, and federal agencies who, through their efforts*  
12 *and responsibility to establish and enforce policies such as auto*  
13 *emission standards and permits, require the best available*  
14 *control technology on stationary sources.*

15 *(3) Many of the sources of air pollution are a result of actions,*  
16 *uses, and sources over which cities and counties have no control.*  
17 *These include, but are not limited to, the following:*

18 *(A) Air pollutants transported from other communities or*  
19 *other air basins.*

20 *(B) State or federal highways.*

21 *(C) Emissions from powerplants and other large stationary*  
22 *sources that are regional in nature and which are regulated by*  
23 *state or federal agencies.*

24 *(D) Emissions from railroads, ports, airports, and other*  
25 *federally regulated sources.*

26 *(E) Emissions from stationary sources, which are regulated by*  
27 *local air pollution control districts and air quality management*  
28 *districts.*

29 *(F) Existing land use and transportation patterns.*

30 *(G) Emissions from mobile sources, whose emission standards*  
31 *are regulated by the state and federal governments.*

32 *(H) Pollutants generated by agricultural activity.*

33 *(4) The Legislature recognizes that, in making local planning*  
34 *and land use decisions, cities and counties must balance air*  
35 *quality with other state and local policies and priorities, such as*  
36 *promoting housing development, the protection and conservation*  
37 *of farmland, natural resources, and open space, the avoidance of*  
38 *natural hazards, the promotion of job growth and economic*  
39 *development, and other issues of local, regional, and statewide*  
40 *importance.*

1     (5) *The Legislature further recognizes that, in making local*  
2 *planning and land use decisions, cities and counties should adopt*  
3 *policies and strategies to improve air quality in their*  
4 *communities. These policies and strategies may include, where*  
5 *feasible, encouraging infill development and efficient*  
6 *development patterns by ensuring all of the following:*

7     (A) *That any infrastructure associated with development that*  
8 *is not infill supports new development that uses land efficiently.*

9     (B) *That the development is built adjacent to existing*  
10 *developed areas to the extent consistent with state planning*  
11 *priorities to protect environmental and agricultural resources.*

12     (C) *That the development is located in an area appropriately*  
13 *planned for growth.*

14     (D) *That the development is served by adequate transportation*  
15 *and other essential utilities and services.*

16     (E) *That the development minimizes ongoing costs to*  
17 *taxpayers.*

18     (b) *The legislative body of each city and county shall either*  
19 *adopt an air quality element as part of its general plan or amend*  
20 *the appropriate elements of its general plan, which may include,*  
21 *but are not limited to, the required elements dealing with land*  
22 *use, circulation, housing, conservation, and open space, to*  
23 *include data and analyses, goals, policies, and objectives, and*  
24 *feasible implementation strategies intended to contribute to and*  
25 *complement other local, regional, state, and federal strategies to*  
26 *improve air quality.*

27     (c) *The adoption of an air quality element or the amendment*  
28 *of a general plan to comply with the requirements of subdivision*  
29 *(b) shall include all of the following:*

30     (1) *A report describing local air quality conditions including*  
31 *air quality monitoring data, emission inventories, lists of*  
32 *significant source categories, attainment status and designations,*  
33 *and applicable state and federal air quality plans and*  
34 *transportation plans. This report shall include a summary of*  
35 *local, district, state, and federal policies, programs, and*  
36 *regulations that may improve air quality in the city or county.*  
37 *The city or county shall base this report on information provided*  
38 *to the city or county by the air pollution control district or air*  
39 *quality management district in which the city or county is*  
40 *located.*

1 (2) A comprehensive set of goals, policies, and objectives that  
2 ~~may contribute to and complement other federal, state, regional,~~  
3 ~~and local strategies to improve air quality.~~

4 (3) A set of feasible implementation measures designed to  
5 carry out those goals, policies, and objectives.

6 (d) *The adoption of an air quality element or the amendment*  
7 *of a general plan to comply with the requirements of subdivision*  
8 *(g) shall not prohibit cities and counties from encouraging the*  
9 *phasing in of a development, comprehensive planning, or a*  
10 *mixed-use development, including residential developments near*  
11 *transit centers to reduce traffic congestion and provide housing*  
12 *near these transit centers.*

13 ~~(d)~~

14 (e) At least 45 days prior to the adoption of an air quality  
15 element or the amendment of a general plan pursuant to this  
16 section, each city and county shall send a copy of its draft  
17 document to the air quality management district or air pollution  
18 control district in which the city or county is located. The district  
19 may review the draft elements or draft amendments to determine  
20 whether they ~~may improve air quality consistent with the~~  
21 ~~strategies listed in paragraph (3) of subdivision (a) will contribute~~  
22 ~~to improved air quality in the planning area.~~ Within 30 days of  
23 receiving the draft elements or draft amendments, the district  
24 shall send any comments and ~~advice~~ *recommendations* to the city  
25 or county. The legislative body of the city or county shall  
26 consider the district's comments and ~~advice~~ *recommendations*  
27 prior to the final adoption of air quality amendments to the  
28 general plan. If the district's comments and ~~advice~~  
29 *recommendations* are not available by the time scheduled for the  
30 final adoption of the air quality element or amendments to the  
31 general plan, the legislative body of the city or county may act  
32 without them. The district's comments *and recommendations*  
33 shall be advisory to the city or county.

34 ~~(e)~~

35 (f) (1) The legislative body of each city and county within the  
36 jurisdictional boundaries of the San Joaquin Valley Air Pollution  
37 Control District shall comply with this section no later than one  
38 year from the date specified in Section 65588 for the next  
39 revision of its housing element that occurs after January 1, 2004.

(2) The legislative bodies of all other cities and counties shall comply with this section no later than one year from the date specified in Section 65588 for the next revision of its housing element that occurs after January 1, ~~2006~~ 2007.

(g) *A city or county that has adopted an air quality element or amendments to its general plan to address air quality, prior to January 1, 2007, shall be deemed to have met the requirements of this section if the city or county makes a written finding that the element or amendments have addressed local air quality issues that are substantially consistent with the objectives of this section.*

(h) *The Legislature does not intend that cities and counties, in implementing this section, duplicate actions that are the responsibility of the air quality management districts, air pollution control districts, or metropolitan planning organizations.*

SEC. 2. Nothing in this act shall be interpreted to expand the application of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), the existing authorities of the affected local governments, or any air quality management district or air pollution control district.

SEC. 3. The Legislature finds and declares that Sections 65104 and 66014 of the Government Code provide local agencies with authority to levy fees sufficient to pay for the program or level of service mandated by this act.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.